

REMARKS

Claims 1 - 6 and 8 - 20 are pending. By this amendment, claims 1, 12, and 19 are amended. No new matter is introduced. Reconsideration and issuance of a Notice of Allowance are respectfully requested.

On page 3 the Office Action rejects claims 1 - 6 and 8 - 20 under 35 U.S.C. § 112, first paragraph. This rejection is respectfully traversed.

Claims 1, 12, and 19 are amended to comply with the written description requirement. Withdrawal of the rejection of claims 1 - 6 and 8 - 20 under 35 U.S.C. § 112, first paragraph is respectfully requested.

On page 5 the Office Action rejects claims 1 - 20 under 35 U.S.C. § 103(a) over U.S. Patent 5,590,056 to Barritz (hereafter Barritz) in view of U.S. Patent 6,301,615 to Kutcher (hereafter Kutcher). This rejection is respectfully traversed.

Considering claim 1, the Office Action asserts that Barritz and Kutcher disclose all the recited elements including “restarting the performance management software to engage the configuration of the performance management tools,” and cites Barritz at Figure 6, step 310.

Barritz is directed to an apparatus, and a corresponding method, for monitoring usage of computer programs, and similar events, and for recording such events. Barritz uses a surveying program 12 to survey storage devices 14, 16, and 18 to determine the program modules that are present in the storage devices. *See* col. 4, lines 44 - 56. Barritz’s apparatus then compares the names of the program modules found in the storage devices to names in knowledge base 20, and when matches are found, records information pertinent to the program modules in system configuration log 66. *See* col. 5, lines 29 - 34. Once the surveying program 12 has completed its tasks, a monitoring program 22 operates to record event data, such as usage, for the program modules. *See* col. 9, lines 12 - 22. Note that when Barritz’s apparatus is loaded into a computer system 10, the surveying program 12 is run, and then the monitoring program 22 is run. *See* col. 9, lines 12 - 22. At no time is Barritz’s apparatus “restarted” to engage the monitoring program 22 or any other part of Barritz’s apparatus. Barritz’s step 310, in fact, “obtains access to both the system configuration log, and the recorded information log.” *See* col. 12, lines 55-58.

In contrast to Barritz, amended claim 1 recites a method for automatically configuring performance management software in a computer system, comprising inventorying applications and performance management tools ... and restarting the performance management software to engage the configuration of the performance management tools.

Thus, claim 1 includes features not disclosed or suggested by Barritz and Kutcher. Since all the elements of claim 1 are not disclosed or suggested by Barritz and Kutcher, claim 1 is patentable.

Claims 2 – 6 and 8 - 11 depend from patentable claim 1, and for this reason and the additional features they recite, claims 2 – 6 and 8 - 11 are also patentable.

Independent claim 12 is an apparatus claim that corresponds to method claim 1. For the same reasons as noted above with respect to claim 1, claim 12 is also patentable. Claims 13 – 18 depend from patentable claim 12, and for this reason and the additional features they recite, claims 13 – 18 are also patentable.

Independent claim 19 is a method claim generally corresponding to method claims 1 and 9. For the same reasons as noted above for patentability of claims 1 and 9, claim 19 is also patentable. Claim 20 depends from patentable claim 19, and for this reason and the additional features it recites claim 20 is also patentable.

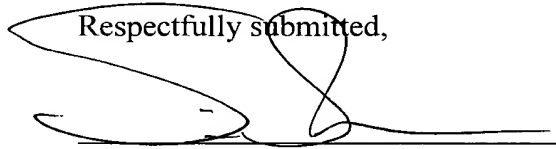
In view of the above remarks, Applicant respectfully requests withdrawal of the rejection of claims 1 – 6 and 8 - 20 under 35 U.S.C. § 103(a).

In view of the above remarks, Applicant respectfully submits that the application is in condition for allowance. Prompt examination and allowance are respectfully requested.

Should the Examiner believe that anything further is desired in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Date: **January 17, 2006**

Respectfully submitted,



Sean S. Wooden
Registration No. 43,997
Andrews Kurth LLP
1350 I Street, NW
Suite 1100
Washington, DC 20005
Tel. (202) 662-2700
Fax (202) 662-2739